

From: [Wilcoxon, Katy](#)
To: [Davis, Kathy](#)
Subject: RE: WSRC: the agricultural Worker Protection Standard proposals (40 CFR 170) - update for the Internal Workgroup
Date: Tuesday, September 10, 2013 12:53:50 PM

Thank you Kathy for the clear explanation. Our Division Director Enrique Manzanilla, who had a passion for the WPS rules, farmworker issues, and especially the minimum age for some reason, was moved to Superfund, I really have no one to brief anymore. So sad...less interesting, though perhaps easier.

I have been meaning to talk with you all about your plan for outreach on the proposed rule. Do you have a plan yet? The reason I am asking is that Fabiola and I are mulling over our workplan for next year and she is interested in having some public meetings to explain the proposal to farmworkers/organizations/family members, etc. She has done a lot of work with community based organizations and really connects with people.

I vaguely remember lots of rules about Regional outreach on proposed national rules...we have to invite the whole country or something like that. When you have some minutes, maybe a phone call would be easier. Or let me know who would be good to talk with about this.

Katy

From: Davis, Kathy
Sent: Tuesday, September 10, 2013 6:08 AM
To: Cybulski, Walter; Dole, Timothy; Firestone, Michael; Fortuin, Christine; Garrison, Scott; Hellyer, Yvette; Hogue, Joseph; Huskey, Angela; Kausch, Jeannine; Leahy, John; Lloyd, Matthew; Powell, Mary; Reyes, Elizabeth; Singh, Amar; Thundiyil, Karen; Tripathi, Arati; Walsh, Michael; Weiler, Gregory; Wilcoxon, Katy
Cc: Smith, Peterj; Wingate, Diedra; Keaney, Kevin; Wyatt, TJ; Berwald, Derek; Arling, Michelle; Evans, Jeff; Kasai, Jeanne; Nelsen, Ashley; Pont, Richard; Schroeder, Carolyn
Subject: WSRC: the agricultural Worker Protection Standard proposals (40 CFR 170) - update for the Internal Workgroup

Hi everyone -

There is an update on the WPS to share with you, but I must ask that you ***please keep discussions of these matters internal to EPA at this time.***

The Notice of Proposed Rule Making for the WPS has been moving along the process. Under FIFRA, we have to share the proposal with USDA for their comment. We met with them twice this summer, and they provided their comments on the rule in mid-July.

One of USDA's comments related to the proposal for a minimum age of 18 for handlers and early-entry workers. USDA is willing to support a minimum age of 16 (this would still NOT impact children working on the family farm), which is in line with the Department of Labor's Hazardous Order for handlers of Toxicity Category I and II pesticides (under the Fair Labor Standards Act).

You may recall that there was significant push back from the agriculture industry in 2011 when the Department of Labor proposed a number of changes to their hazardous orders. In fact, the push back was so strong that DoL rescinded their entire proposal, and stated that the rule would not be re-proposed under the Obama administration. Many comments expressed concern for how the rules could impact family farms, prompting the department to respond: “The Obama administration is firmly committed to promoting family farmers and respecting the rural way of life, especially the role that parents and other family members play in passing those traditions down through the generations.”

So we went back and looked again at our minimum age proposals, which we expect to be controversial within the agricultural community. The USDA and the agency’s Children’s Health Protection Advisory Committee support a minimum age of 16 for handlers. The Department of Labor Hazardous Order rules are in place with a minimum age of 16 for handlers. Most advocacy groups recommend a minimum age but are not explicit about what that age should be. Two advocacy organizations support 18 for the minimum age, but don’t provide additional information.

I know that you realize that this is not the only protection that the revised rule will provide youth farmworkers. We are still proposing to require (among many other protections) improved pesticide safety training, strengthened posting of treated areas under an REI and provisions for notification, and for handlers wearing respirators, require OSHA like protections. We are establishing requirements for hazard communications, requiring additional safety posters to remind workers and handlers to observe the hygienic practices necessary to minimize their exposure, improve protection from spray drift, and plan to better protect employees of crop advisors.

So – to conclude this rather long e mail – it was decided, at the AA level, to propose a minimum age of 16 for handlers and early entry workers. We will include, as an alternative, a minimum age of 18, and take comment on that option. We believe this approach will give us adequate protection for children which is better than the current state (no minimum age for handling or early entry), and should we get information that supports it, it is possible that we could go to a final rule with a minimum age of 18.

The good news is that the rule is continuing to move ahead! We have cleared the USDA review process, and hope to move the rule ahead to our regulatory coordination staff in the next few weeks, and shortly thereafter to OMB.

Thank you for your efforts to develop this important rule.
Kathy

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